

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS PALACIOS GOMEZ,

Defendant and Appellant.

2d Crim. No. B153914  
(Super. Ct. No. 036145-01)  
(Los Angeles County)

Luis Palacios Gomez appeals from the judgment entered after a jury found him guilty of unlawfully driving or taking a vehicle (count one) and two counts of misdemeanor battery upon a police officer (counts two and three). (Veh. Code, § 10851, subd. (a); Pen. Code, § 243, subd. (b).) In a bifurcated proceeding, the jury also found that appellant had suffered three prior convictions within the meaning of California's Three Strike's law, had served three prior prison terms, and had previously been convicted of violating Vehicle Code section 10851, subdivision (a). (Pen. Code, §§ 1170.12, subds. (a)-(d); 667, subds. (b)-(i); 667.5, subd. (b); 666.5.) The trial court struck two of appellant's prior convictions for purposes of the Three Strike's law only. The court sentenced appellant to an aggregate term of 13 years.

We appointed counsel to represent appellant in this appeal. After examining the record, counsel filed an opening brief raising no issues and requesting that this court independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

On May 6, 2002, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished to raise on appeal. On May 31, 2002, we granted appellant's request for an extension of time within which to submit a supplemental brief, to and including July 1, 2002. To date, we have not received a supplemental brief from him. On June 25, 2002, we denied appellant's motion to strike the opening brief filed by his appellate counsel and to appoint a new attorney for him on appeal.

We have reviewed the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) We observe, however, that the abstract of judgment contains a clerical error that must be corrected.

An abstract of judgment must conform to and reflect the trial court's oral pronouncement of sentence. (*People v. Boyde* (1988) 46 Cal.3d 212, 256, overruled on other grounds in *Boyde v. California* (1990) 494 U.S. 370; *People v. Avila* (1999) 75 Cal.App.4th 416, 418.) Here, the trial court orally pronounced appellant's sentence as totaling 13 years, consisting of the upper term of 4 years on count one, doubled as a second "strike," plus 3 years for the prior prison terms, plus a consecutive one year on count 2 (a misdemeanor), plus a consecutive one year on count three (a misdemeanor). The abstract of judgment omits the sentence on count three and shows that appellant received an aggregate sentence of 12 years, instead of the 13 years orally pronounced by the trial court.

Accordingly, we direct the clerk of the superior court to prepare and to forward to the Department of Corrections a corrected abstract of judgment which

includes the consecutive one year sentence imposed on count three and recites that appellant received a total aggregate term of 13 years. As modified, the judgment is affirmed.

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COFFEE, J.

We concur:

GILBERT, P.J.

PERREN, J.

Debre Katz Weintraub, Judge

Superior Court County of Los Angeles

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Elizabeth A. Bumer, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.